



City and County of
San Francisco
Human Rights Commission

Hearing Date: April 12, 2012

COMMUNITY VOICES THE HUMAN RIGHTS IMPACT OF THE WAR ON DRUGS



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Darby Beck, The California Coalition of Women Prisoners

Linda Evans, All of Us or None

Allen Hopper, ACLU of Northern California

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INTRODUCTION: A COMMUNITY RECORD

On April 12, 2012, the Human Rights Commission (HRC) held a hearing to examine the human rights impact of the War on Drugs. The Commission called on community-based organizations, academics, formerly incarcerated individuals, employment attorneys, youth activists, immigration and civil rights advocates and members of the public to describe how the War on Drugs affects San Franciscans. The purpose of the hearing was to solicit testimony from community members, document community concerns, and explore policies and recommendations on a local level to address the concerns raised.

The HRC was joined by more than 100 community members at the hearing. The following record summarizes the testimony provided at the hearing and through written testimony. It includes personal stories of those who have been prosecuted in the War on Drugs, experiences of service providers assisting them, and scholars who study the War on Drugs.

As one of the first government agencies in the country to examine the War on Drugs through this lens, the HRC hopes that this hearing will assist policymakers and community members not only in policymaking, but also in bearing witness to the experiences of San Franciscans under these laws.

Since the hearing, the HRC has been engaged in dialogue with City departments regarding the concerns raised at the hearing. The HRC has transmitted the findings and recommendations that emerged from the hearing to the various departments in order to solicit their input and feedback as to the effectiveness and feasibility of the community recommendations. Given that the most recent arrest statistics provided at the hearing were from 2009, we have also requested that the departments provide us with the most current statistics available. The HRC hopes to publish a subsequent report that will include the information gained from these dialogues and to document evidence-based, best practices employed by City departments to curb and redress the human rights impact of the War on Drugs.

THE HEARING



Commissioners Sheryl Evans Davis, left, and Susan Belinda Christian, right, Hearing Co-Chairs

HEARING OBJECTIVES

The San Francisco Human Rights Commission in partnership with UC Hastings Social Justice Lawyering Clinic organized the hearing to accomplish two main objectives:

- 1.** To solicit testimonies from local victims of the War on Drugs and document the human rights impact of the War on Drugs.
- 2.** To propose policies and recommendations on the local level with the hope of spurring a national discussion on the War on Drugs.

The hearing was co-chaired by Commissioner Susan Belinda Christian and Commissioner Sheryl Evans Davis. Commissioner Christian, an assistant district attorney, opened the hearing by indicating: “We are here to listen. Tonight we’re not going to take up the question about whether drugs should be illegal or criminalized. What we want to look at tonight is the effect of the criminalization and the sanctions that have been placed on narcotics use and abuse. We want to hear what these things have done to our communities. We all understand that even though drug use is the same across different ethnicities and demographics, criminal enforcement seems to fall most heavily on communities of color and communities of people who have not traditionally been in the majority... Tonight we want to look at what’s going on and how we can improve our care of our communities.”

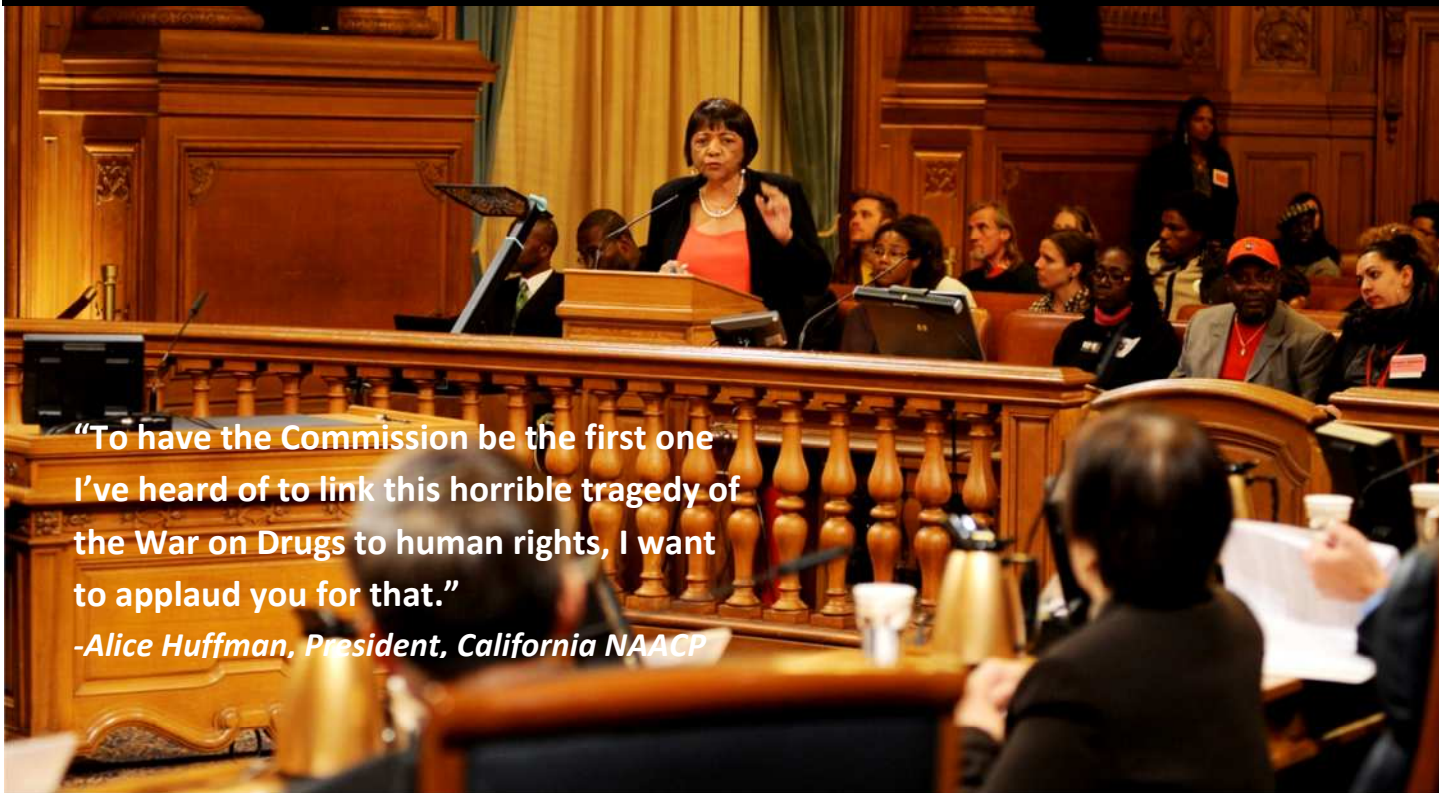
Commissioner Davis, the Executive Director of Mo' Magic, followed Commissioner Christian by stating that "despite the War on Drugs being a federal policy, its impact is very localized. In the Western Addition at the community collaborative Mo' Magic, we do a lot of work with families that have been impacted by the War on Drugs. We've seen the wide range of this impact. For 40 years as a nation we've waged this War on Drugs and during this time there has been an increased focus on drug related crimes and with major increases in funding to law enforcement and criminalization of communities of color and ultimately this increase in prisons and jail populations with non-violent offenders, we really want to examine it and take a closer look."

ATTENDANCE

The hearing was organized by the Human Rights Commission in conjunction with the U.C. Hastings Community Group Advocacy and Social Justice Lawyering Clinic. It was attended by over 100 participants and observers. From the Commission, Commission Chair Michael Sweet, Commission Vice- Chair Douglas Chan, Commissioner (now Chair) Susan Belinda Christian, Commissioners Sheryl Evans Davis, Mark Kelleher (now Vice-Chair), Faye Woo Lee, Todd Mavis, Nazly Mohajer, and Michael Pappas were present. There were advocates, service providers, nonprofit organizations, and community members. City officials in attendance included San Francisco Police Chief Greg Suhr, Mayor's Office Deputy Chief of Staff Paul Henderson, Juvenile Probation Chief William Sifferman, Adult Probation Officer Martin Krizay, Sheriff's Captain Johna Pecot, Police Commander Richard Corriea, and Tara Anderson, Policy and Grants Manager for the San Francisco District Attorney's Office.



SUMMARY OF EXPERT TESTIMONY



"To have the Commission be the first one I've heard of to link this horrible tragedy of the War on Drugs to human rights, I want to applaud you for that."

-Alice Huffman, President, California NAACP

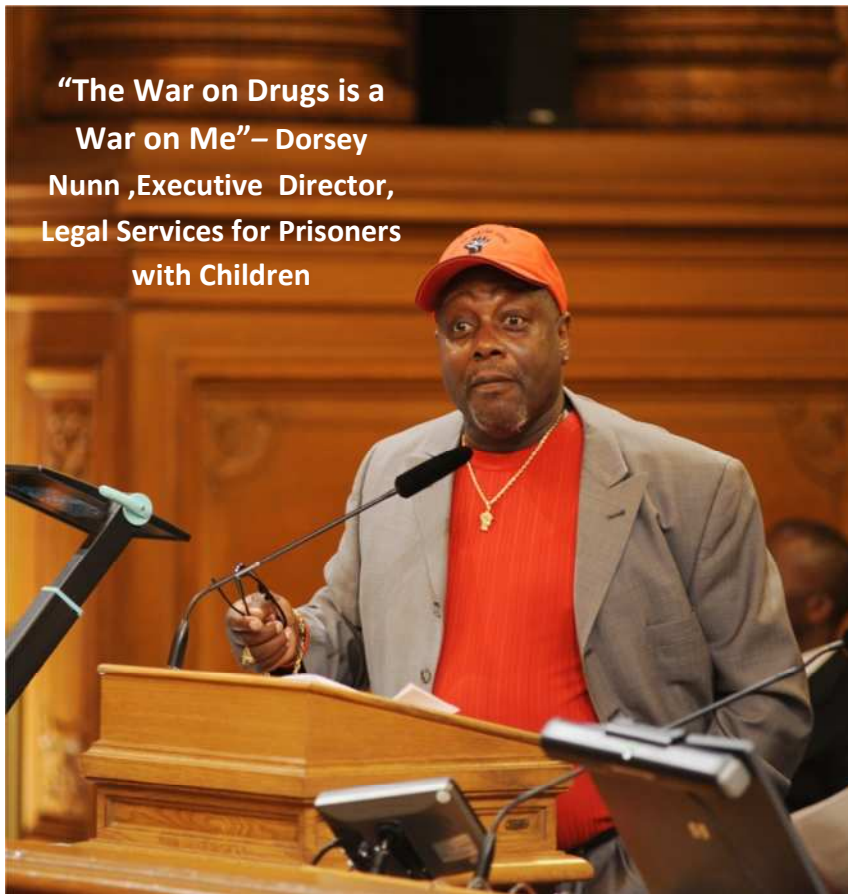
The following section of community testimony is divided into two parts. The first section presents the testimony of experts who were present at the hearing and is grouped by the agenda item under which they spoke. The second section includes selected responses of those who submitted written testimony and those community members who testified during the hearing. For a full transcript of the hearing, please visit http://sanfrancisco.granicus.com/DocumentViewer.php?file=sanfrancisco_b29fc0276cb51573c9d5adf50d94d4a3.pdf&view=1

RIGHTS LOST: OVERVIEW OF THE HUMAN RIGHTS IMPACT OF THE WAR ON DRUGS

The hearing began by examining the War on Drugs on a national level. Speakers noted the importance of a public, city-sponsored dialogue on the issue and emphasized the role that race plays in the War on Drugs.

Alice Huffman, president of the California National Association for the Advancement of Colored People (NAACP) and board member of National NAACP pointed out that, in 2011, the National NAACP board passed a resolution calling for an end to the War on Drugs. Ms. Huffman emphasized that, "I know there are people who believe that the War on Drugs protects them. I will submit to you that the War on Drugs has destroyed many African American men and women and has not protected us all."

INCARCERATION, DISCRIMINATION, AND LIFETIME STIGMA



“The War on Drugs is a War on Me”– Dorsey Nunn ,Executive Director, Legal Services for Prisoners with Children

Dorsey Nunn, Executive Director of Legal Services for Prisoners with Children testified: “I want to talk about the War on Drugs, not as a prisoner, but as a person who’s actually been paroled, discharged, and can’t get a job because on the job application you have structural discrimination, and the question is, ‘have you been convicted of a felony?’ They used to ask the question in a different way, it used to be ‘Are you a Negro?’ It’s not only on the job applications, it’s on the applications when you go to apply for public housing, it’s on the application when you go to apply for a student loan, it’s on the application when I really want to become equal and leave whatever resources I have left to my children, it’s on my life insurance application. So from the start to the finish, it’s there.”

A Note about Language

Understanding the human rights violations resulting from impact of the war on drugs requires a critical reflection on language. When we use “ex-con,” “ex-offender,” or “ex-felon,” there is an implication that a person’s conviction history is their only identity. Similarly, terms like “criminal,” “convicted felon,” and “addict” assume that a person’s actions can summarize their identity. Too often they are used to dehumanize people or impugn on their credibility, thus prohibiting thoughtful examinations of attitudes, practices and public policies. Since this report aims to enhance discussions around the War on Drugs, every attempt was made to use language not rooted in stereotypes or resulting in disparate treatment. It is for those reasons that such language will not appear in this document.

RIGHT TO LIBERTY AND EQUAL TREATMENT

Speakers emphasized the need for policy makers to examine the War on Drugs through a racial justice lens. While much has been documented on the national impact of the War on Drugs on race, invited speakers recommended that San Francisco officials examine local policies and the documented racial disparities.

Selena Teji, JD, of the Center on Juvenile and Criminal Justice and Professor William Armaline, Director of Justice Studies for San Jose State University jointly presented the Center on Juvenile and Criminal Justice's ("CJCJ") report on African American Drug Arrests in San Francisco. Released on the day of the hearing, CJCJ's publication detailed a 40-year analysis of arrest practices.

Ms. Teji presented several findings of CJCJ's report:

- Despite disproportionately high drug arrest rates among young African Americans in San Francisco, of the more than 2,000 San Francisco residents and nonresidents in the city who have died from abuse of illicit drugs in the last decade, 6 in 10 were non-Latino Whites, and more than 7 in 10 were age 40 and older.



Professor William Armaline, Director of Justice Studies, San Jose State University, left, and Selena Teji, JD, Center on Juvenile and Criminal Justice, right

“In the US we have this impossible burden of needing to prove animus and actual racist intent behind any kind of policy and effect, such as behind any kind of racially disparate effects we talked about in terms of the drug war. International law is much better informed by social science and social theory in that they do not require proof of racial animus. The only thing that international law, in terms of human rights, is concerned with is the actual results. If the results are racially discriminatory or racially disparate, then it’s a violation, regardless of animus, regardless of conscious intent; and so I would encourage the Commission to take advantage of that discursive tool in engaging in this discussion on human rights.”

- Dr. William Armaline, San Jose State University



- The city's African American female youth account for over one-third of felony drug arrests of all African American female youth in California and have arrest rates 50 times higher than their counterparts in other counties.
- African Americans in San Francisco experienced felony drug arrests 19 times higher than San Franciscans of other races and 7.3 times higher than African-Americans elsewhere in California.

Dr. Armaline suggested relying on international human rights standards for determining whether policies or practices related to the War on Drugs are racially discriminatory. He suggested that such an approach, by measuring effects rather than the ambiguous and unnecessary presence of "intent," is both grounded in social science and binding under international law – namely the International Convention on the Elimination of all Forms of Racial Discrimination ("ICERD").

Novella Coleman of the American Civil Liberties Union cited the SFPD's "Buy and Bust" policy as a current SFPD policy that needs critical review. According to Ms. Coleman, buy-busts are supposed to be strategically employed to prosecute high-level drug dealers who pose a danger to public safety. However, a survey of news stories reveals that all too often buy-busts target communities and individuals who are already marginalized in society. Ms. Coleman testified that, "Buy and Bust" has a disproportionate impact on African Americans because it focuses on "outdoor stranger-to-stranger sales, which characterize African American drug selling markets."

'Buy and Bust' has a disproportionate impact on African Americans."

*Novella Coleman,
American Civil Liberties Union*



Michelle Rodriguez, National Employment Law Center, left; Jessie Warner, Reentry Coordinator for Contra Costa County, right

RIGHT TO ECONOMIC JUSTICE, EDUCATION AND COMMUNITY

Invited speakers identified barriers to access of crucial predictors of stability, including housing, employment and the ability to live with family members.

Michelle Natividad Rodriguez, Staff Attorney at the National Employment Law Project discussed the need for supportive programs in addition to San Francisco’s Clean Slate Program. According to Ms. Rodriguez, over 6,000 people contact the San Francisco Public Defender’s office every year regarding expungement services. She argued that record expungement was one critical tool for people with records to reduce their employment barriers and that more resources should be directed to expanding the courts’ availability to hear expungement petitions. Further, she provided that given the financial and procedural barriers to expungement and the prevalence of inaccurate criminal records (which may not reflect expungements), it is imperative that the City and County address the fact that many employers utilize blanket bans on hiring new persons with convictions records – a practice that violates federal law.

The Commission also heard testimony from **Jesus Yanez, Program Manager of La Cultura Cura Youth Program, Instituto Familiar de la Raza**. Mr. Yanez spoke about the youth clients he worked with in San

Francisco’s Mission District. He detailed the “unique developmental and rehabilitative needs of young adults.” Moreover, he encouraged the City to explore new ways to “hold...providers, institutions, and communities themselves accountable for their actions by expanding existing programs with proven track records of success and invest in the sustainment and evaluation of community defined best practices.” Mr. Yanez also indicated gang injunctions have placed an undue hardship on his clients as they seek to reform and reunite with their families.

Mr. Yanez testified about the experience of one of his clients: “Marcos is a 15 year old who came to S.F. to reconnect with his mother. Marcos had not seen his mother for over 5 years... she was in the process of obtaining asylum as a result of the documented atrocity that her family experienced. When Marcos came to S. F. and met with service providers he disclosed a history of substance abuse which he indicated started after witnessing the death of his father, hacked to death in front of Marcos and his mother, and expressed experiencing physical abuse at the hands of his mother upon reconnecting with her in the City. Unfortunately, during a contentious argument with his mother, Marcos stepped out late one night and was picked up by the authorities for purchasing Marijuana. Marcos was detained and booked with possession, resisting arrest, and received a gang enhancement for wearing the wrong colors after being detained in a gang-injunction zone. While in detention, he was picked up by ICE authorities and transported to a federal facility due to his under-documented status.”



Jesus Yanez, Program Manager of La Cultura Cura Youth Program, Instituto de Familiar de la Raza

RIGHT TO ENGAGEMENT IN CIVIL SOCIETY

Speakers indicated that civic engagement encompasses various aspects of rights and freedoms, including the right to vote, serve on juries, serve in elected office and access other mechanisms of self-empowerment. According to **Linda Evans, Organizer for All of Us or None**, “civic engagement is a very broad subject when formerly incarcerated people address it because we know that in order for us to actually engage in a meaningful way in civil society, we must change the public perception that people have of us of our conviction history.” According to Ms. Evans, the perception people have about persons with conviction histories often guides discriminatory laws and practices, including blanket bans on housing and job applications.

Evans invited **Traci Rambin, a youth advocate with the Center for Young Women’s Development**, to talk about her struggles against those



Traci Rambin, Center
for Young Women’s
Development

discriminatory policies. Ms. Rambin identified the Center for Young Women’s Development as one of the resources available to young people who are trying to move on from drug and other convictions.



Linda Evans,
Organizer for
All of Us or None

“A little about how it is – it’s hard. It’s hard trying to get a regular job like McDonalds, Burger King, any little common job. It’s good because now I have a little bit of experience. I know what I can put on an application to justify what I went through. Even though I’m overcoming that, it’s still on my record. It’s hard for me to just try to get a job. I’m trying to get a job right now that’s like \$15 an hour. But since I got a felony, I can’t do that. They told me, you know, you have to go through this organization or that organization and it’s like “wow,” if I wouldn’t have ever done that, maybe I could have that \$15 an hour job. But I’m changing my life all the way around so that I can get that \$15 an hour job.”

-Traci Rambin, Center for Young Women’s
Development

Su Yon Yi
Special Project Attorney
Immigrant Legal Resource Center



Su Yon Yi, Special Project Attorney at the Immigrant Legal Resource Center provided details on the consequences drug offenses can have on immigrant communities. According to Ms. Yi, 1 out of 4 California residents is an immigrant and 1 out of 2 children live in a household with an immigrant parent. Ms. Yi indicated that even minor drug convictions – including simple possession, being under the influence, or holding drug paraphernalia – can lead to detention and deportation. Ms. Yi testified that “a harsh consequence of a drug conviction is that a person will be put into mandatory immigration detention; that means no bail. So while they are fighting their immigration case, they are going to be sitting in immigration detention and that could be for a couple of months, or for a couple of years, and this could be for an offense that had no jail.

“I’d like to share a story of a San Francisco resident. He’s been an LPR, a lawful permanent resident and green card holder, and has been here for 11 years. When he was 18 years old he was working at a pizza parlor and there was a drug bust. So as a result of this, he pled to possession for sale and he served a couple of days in jail. Eventually, after probation was done, he got the conviction expunged. That was 8 years ago. Today he’s sitting in an immigration detention center in Arizona and he’s fighting his deportation case. His family is all here in San Francisco, but as a result of this one drug conviction that he got expunged, he is likely going to be deported and he will probably never have a chance to come back into the US with legal status.”

– Su Yon Yi, Immigrant Legal Resource Center

HEALTH AS A HUMAN RIGHT: HARM REDUCTION AND PUBLIC SAFETY

The HRC invited presenters to discuss problematic drug use from a public health perspective in addition to a criminal issue. Speakers related stories of working with HIV patients as well as personal narratives of being denied proper medical treatment.



Laura Thomas, Deputy State Director of the Drug Policy Alliance testified that mass incarceration of persons with drug convictions has resulted in “disruption of the social, sexual and family networks in communities of color.” According to Thomas, “the incredible racial disparity” of HIV and AIDS in the U.S. is directly related to emphasis on the imprisonment of young men of color. This link between the overwhelming burden of HIV and AIDS being borne by African Americans and the high representation of African Americans in the penal system “underscores the importance of an ongoing dialogue by policy makers about the human rights impact of the War on Drugs.”

The timing of the hearing also coincided with several major federal crackdowns on local medical marijuana dispensaries. Under Proposition 215 (1996) certain forms of possession, use, growth, and distribution of medical marijuana are legal for patients with proper medical documentation according to state law in California. However, this state law has no bearing on

federal law enforcement. According to Ms. Thomas, these crackdowns on medical marijuana dispensaries exacerbate the health crisis of the War on Drugs. She testified that, “the lack of full legal regulated access to medical Cannabis is one of the implications of the War on Drugs. Patients who need medical Cannabis and are trying to address their health and improve their health by getting access to medical Cannabis are some of the worst victims of the War on Drugs. And this is part of the human rights violations that we have created.”

Isaac Jackson, Lead Community Organizer at San Francisco Drug Users’ Union, discussed the treatment he received in San Francisco General Hospital Emergency Room due to his status as a drug user. He indicated that “this incident encouraged [him] to work with doctors to develop a survey on the stigma they associate with drug users or psych ward references on medical files.” Mr. Jackson ended by saying “We are all human beings. We all are different. But the thing that unites us—the one thing that should unite us—is our bodies. We all have the same kind of bodies. We all get sick and need attention and sometimes go to the hospital, whether it is for mental health or for physical health.”



RECLAIMING RIGHTS: TOMORROW'S CIVIL RIGHTS MOVEMENT STARTS TODAY

The hearing closed with remarks from the community on how to use history as a guide for a better future. **Deborah P. Small, Executive Director of Break the Chain**, began her testimony with the reminder that San Francisco was one of the first cities in the country to pass laws restricting drug use in the 1800's. In 1875, San Francisco was the first municipality to pass a law prohibiting opium use. According to Ms. Small, "it was a law that was specifically designed to target the Chinese community for their drug consumption and it completely ignored similar drug consumption by Europeans here. And in the same way that the laws in San Francisco were built and based in discrimination, so too are all of our policies in the United States."

She continued to link the War on Drugs to race and class. "All of the laws that we passed initially were linked to minorities. The first anti-cannabis laws were directly linked towards Mexican Americans and was directed more as an effort to control their behavior. The first laws against crack cocaine were specifically directed at African Americans."

Ms. Small emphasized that this kind of history, combined with the data that people of color with drug convictions fill prisons across the country, requires a critical analysis of seemingly neutral anti-drug enforcement policies and makes one "begin to wonder whether the War on Drugs is actually about drugs or if it's about social marginalization and control...So regardless about how you feel about the War on Drugs, about how you feel about drugs, I think it's really important to look at what the impact of the Drug War has been for the past 100 years in our country."

Ms. Small explained that, "Despite the fact that we know that drugs are used equally among each socioeconomic group, it doesn't matter what state you go to in this country, you will find the prisons



Deborah P. Small, Executive
Director, Break the Chains

filled with people of color. And I think that if you look at the fact that, again, no matter where you go in the country, the majority of the people that are in jail for drugs are poor people." She asked, "So why is it that we are willing to tolerate a law enforcement strategy around drugs that basically makes [drugs] decriminalized for people with money, for people with status, for people with power for people without melanin and a violation for everyone else?"

"Today in America, the War on Drugs and human rights is an oxymoron." Deborah P. Small, Director Break the Chains

SUMMARY OF PUBLIC TESTIMONY



In order to hear from the many members of our diverse community, the Human Rights Commission solicited public comment through several mechanisms. These included comment by written testimony and an open public comment. A selection from this testimony follows.

Meredith Desautels, Director, Second Chance Clinic, submitted a written comment on the common issues faced by her clients. “Through our Clinic, I have seen firsthand the way that the War on Drugs creates an oppressive cycle of re-incarceration, undermining core civil rights values and harming our communities. Having a drug conviction makes it extremely difficult to get back on track and out of the criminal justice system permanently. With very few exceptions, drug convictions in California are felonies, even simple drug possession. As a result, people with drug convictions have a very hard time finding stable jobs and housing, making it next to impossible to become self-sufficient and reintegrate into the community.”

According to **Orlando Chavez**, “The current focus on criminal justice is part of the problem, it drains much needed resources from public health, medical and science-based interventions that actually work but are woefully underfunded. What is needed here is a paradigm shift in thinking away from the war metaphor and a more humane approach, such as harm reduction and harm reduction psychotherapy. Hard handed tough love tactics breed resistance and cost lives. Dead addicts don’t recover.”

PERSONAL NARRATIVES OF THE IMPACT OF THE WAR ON DRUGS

**Meredith Desautels, Director,
Second Chance Clinic**

“The majority of my clients are African American, despite the fact that African Americans make up less than 6% of the population in San Francisco. That the harm of the War on Drugs is concentrated in minority communities [is] part of what makes this a civil rights and human rights issue. Many people might be surprised to learn that this phenomenon is prevalent in San Francisco which takes a more progressive approach to law enforcement, but I have seen the opposite with my clients.”

**Alisha Coleman, California
Coalition of Women Prisoners**

“Most of my criminal history consists of drug charges either buying or selling has had a terrible impact on my life. I’m not denying the fact that it’s all wrong. I just don’t understand why the punishment is so severe. Being convicted of a felony drug conviction is like “Double Jeopardy.” I’m 31 years of age, a single mother, and can’t receive public housing, food stamps, or Section 8 all because I’ve been convicted of a drug felony. I thought that being convicted in jail or prisons was the punishment for my crimes. I guess I was wrong. I made numerous attempts asking for help from the parole officer and other outlets. I signed up for City College. I went to residential treatment program for 5 months (Walden House). I got off parole and I completed Asian Neighborhood designs. Yet and still the fact that I’ve been convicted of a felony ‘a drug felony’ disqualifies me from most positions, even financial aid. So therefore, despite the fact that I want to live a better life, I have a drug conviction. That’s worse than murder, robbery, assault, arson and whole bunch of other crimes as such that doesn’t disqualify. I never physically harmed another person nor have I been convicted of such acts. So it bothers me that because I’ve used drugs and sold them, I lost my citizenship. I need a job and housing, not a program to sit in groups all day. So that’s the options I’m left with as a result of my drug convictions.”

Tanda Davis, a member of the California Coalition of Women

Prisoners submitted a testimony about the experiences she has seen in San Francisco’s Tenderloin neighborhood. “SFPD are out to entrap and prey on the weak: The Addict. When I say prey on and entrap the Addict that is exactly what they do. They go undercover, and while operating a “Buy and Bust” sting, they focus and prey on a person who is cracked, dirty, and homeless. They entice the addict by offering \$20 for a few crumbs of crack. Out of pure desperation the addict sells the piece of crack, and then they are arrested for sales case Penal Code 11352. Until the California realignment that took place, you could jail all of the addicts in the valley state prison (including myself). We are being recycled in system over and over again.”

Several speakers discussed the impact of the War on Drugs on San Francisco’s immigrant community. **Angie Junck, Staff Attorney at the Immigrant Legal Resource Center**, described how immigrant youth are particularly vulnerable to severe punishment:

“A drug offense, even without adjudication, can make a youth deportable for being a drug abuser or addict. A person can be found to be a drug abuser if the noncitizen “meets current [Diagnostic and Statistical Manual] diagnostic criteria for substance dependence or abuse.” For example, taking an illegal drug one time within the last year of an immigration application can qualify as drug abuse. An arrest or juvenile disposition involving a controlled substance may have severe and significant immigration consequences, especially for undocumented youth. Drug related offenses may cause undocumented youth to be statutorily ineligible for lawful status or for other forms of immigration relief. Moreover, even youth with lawful status can suffer immigration penalties. If they leave the country and then try to re-enter, the immigration authorities can place them in deportation proceedings if there is evidence of alleged drug sales or addiction.”



Daniel Landry

Community activists also submitted written testimony addressing the intersections between the War on Drugs and the War on Terror, and how those intersections facilitate racial and religious profiling against Arab, African, Middle Eastern, Muslim, and South Asian (“AAMEMSA”) communities by federal and local law enforcement.

The Arab Resource Organizing Committee (“AROC”) submitted written testimony regarding the federal government’s post-9/11 prosecution of khat users as a means to target and investigate Muslim, Arab, and East African communities for alleged material support of terrorism. The World Health Organization considers khat to be less addictive than tobacco or alcohol. However, the United States Drug Enforcement Administration (DEA) classifies khat as a “Schedule I” drug. Despite the DEA’s prohibition of khat in 1993, criminal prosecutions for khat prior to September 11, 2001 were uncommon. However, after September 11, 2001, the number of khat-related arrests and prosecutions skyrocketed. Yemeni-American citizens and residents are overwhelmingly the target of this campaign. Possession of khat is being used as a basis for investigations, arrests, and unrelated charges, including alleged “Material Support to Terrorists.” Further, allegations of khat use or trafficking are often substituted in the place of hard evidence of “material support,” using the War on Drugs to criminalize communities already marginalized by the War on Terror.

Khurshid Khoja, a local lawyer and civil rights activist serving on the Board of Directors of the Asian Law Caucus, the Asian American Bar Association and other civic organizations, submitted written testimony highlight Associated Press (AP) reports from 2012 that detailed how federal resources for the War on Drugs were used by the New York City Police Department (NYPD) to spy on Muslim-American communities throughout the northeastern U.S., without any reasonable suspicion – something he referred to as a massive erosion of their constitutional rights. Mr. Khoja also highlighted statements from the White House revealing that federal authorities have “no oversight in how [War on Drugs] funds are used by local law enforcement officials once disbursed,” raising the “possibility of similar abuses” against Bay Area AAMEMSA communities:

“Bay Area law enforcement agencies have access to HIDTA [High Intensity Drug Trafficking Area] resources through Northern California HIDTA (NorCal HIDTA). On its agency website, NorCal HIDTA promotes its role in facilitating both terrorism and drug trafficking investigations, conflating the two and raising important questions of oversight... In fact, NorCal HIDTA shares both its director and its website with the Northern California Regional Intelligence Center (NCRIC), and agency whose stated mission is to provide ‘comprehensive intelligence products that give public safety officials a vital regional picture of



David Moss

“I went to jail 14 times for being under the influence of a narcotic. I never sold drugs. I never beat anybody up. I never robbed anybody so I could buy drugs. I never committed a felony nor was I convicted of a felony. But I went to jail 14 times for being under the influence of a narcotic. And every time in court, the only treatment I got was being treated like a criminal. Having a disease is not a crime. I ended up in a doorway. I ended up over by San Francisco State living in a doorway. I had two choices: I could get busy living or I could get busy dying. I chose to live. I chose to get help. And because I sought help treatment, I learned that I have post-traumatic stress disorder and also brain damage from being tortured and molested as a child. I don’t tell you this to elicit your pity. I don’t tell you this to continue being a victim. And I don’t tell you this to make excuses. I learned what’s going on. Drugs and alcohol are the symptoms of a much deeper problem. And because I had a chance to find out what to do I’m now a contributing member of society. I’m not creating collateral damage and draining precious resources from society. Did I learn this in the courtroom? No I did not. So rather than adding more beds, building bigger jails, give people a chance to find out what’s beneath the drugs and alcohol so they can be moms, dads, brothers, sisters, husbands, and wives again.



**Sanyika Bryant, Organizer,
Causa Justa/ Just Cause**

“The War on Drugs has been part of the gentrification of San Francisco. A lot of the reason that there is this exodus of black people from San Francisco is because a lot of folks are going to these prisons in other counties throughout the whole state of California and sometimes out of the state as well. I think that has a major impact on the stability of communities here. In terms of some of the solutions, in terms of quality of life for people in general, I’d like to see an expansion of the definition of sanctuary city with provisions for the economic well-being of the people. Things like All of Us or None’s program for banning the box; things that will make this city a safe place for people to be economically - if you can’t provide for your family, if there is no employment opportunity, if you’re a part of a community that has experienced generation after generation of lack of employment skills. This isn’t a safe place for people to be and people are going to go out to places they can thrive.”

trends and patterns relating to terrorist operations and other criminal activities,’ and to ‘serve as the Joint Terrorism Task Force . . . point of contact for the Northwestern California Region.’ The NCRIC website explains the agency was established by the NorCal HIDTA Executive Board, and is ‘funded through the Office of National Drug Control Policy.’”



**Cecelia Chung,
Commissioner,
San Francisco Health
Commission**

Other participants urged the City to adopt a public health approach to problematic drug use that would address the root causes of addiction.

Cecilia Chung, Commissioner, San Francisco Health Commission, spoke about the intersections between the War on Drugs and criminalization of AIDS. “In 2010, experts from the International AIDS Conference, the International AIDS Society and the Vienna Declaration proclaimed that the criminalization of the illicit drug use is fueling the AIDS epidemic and has resulted in overwhelmingly negative health and social consequences. A full policy reorientation is needed. The testimony presented tonight is very consistent with the international dialogues.”

John Lindsay Poland, Research and Advisory Director for the Fellowship of Reconciliation linked the War on Drugs to the high homicide rates in countries that provide drugs to America. “Massive bloodshed in nations because of the Drug War 4.7 million people in Colombia have been uprooted since 1996— two and a half million of them since in the year 2000. In Mexico, there have been 50,000 people that have been murdered as a result of the Drug War that was declared five years ago. Honduras, which is one of the major areas of the Drug War, now has one of the highest homicide rates in the world, higher than Iraq or Afghanistan. These people are paying with their blood for the Drug War. But the United States is not having any of it. It’s up to us, because there is no one else to represent these nations.”

Many participants at the hearing testified about the impact of War on Drugs on families and community. **Vanessa Jackson, a member of All of Us or None**, described her frustration about the additional barriers placed on her son's father once he was released from prison. "I'm a mother and a parent. And my son's father went to jail because of drug use. And then when he got out, because of living in public housing and living on Section 8, he wasn't able to come back into that facility and to come back and be a man in my son's life... Because of those situations he went back on drugs. He couldn't get a job, he couldn't get resources. He couldn't get housing... and now my son suffers from that. Why does my son have to suffer because of his father's sins?"

Samantha Rogers, member of All of Us or None, described similar experiences in trying to obtain employment or public assistance. "It took me over 17 years to get off parole. Not of any of my doing but because I was an addict. And every time I stepped up to the plate and wanted to get some help and some resources there wasn't nothing there for me... I can't even apply for food stamps. I'm in a program right now and I can't apply for food stamps based on the fact that I had a conviction for sale. If I've done the time and paid for the crime, why do I still have to suffer in my life out there? . . . I'm here to get some understanding; how do you succeed in your life and turn your life around when you still have the system failing you?"

The difficulty to explain or expunge and the implicit bias created by conviction records was a recurring theme in public comments. **Pastor Erris, CEO and founder of Brothers for Change**, indicated that the lifelong nature of these convictions impacts not just his clients but also their families. "I represent an agency that works with African American men, and I mean African American men that try to take care of their children after their lives have been changed. I'm talking about thirty, forty, fifty year old men that need employment, that need some skills. But yet, I think the problem is that San Francisco keeps dedicating all of its services to the youth. And I'm not saying we shouldn't help the youth. But you can't change the whole household by doing service for youth for a day or to a summer program when he's going home and his family is dysfunctional. We have to begin to look at the whole family."

Sandra Johnson

"I am an ex addict. I have not used drugs in over 7 years. I worked at this company here in San Francisco for 4 ½ years, always showing up and doing my best. I won the employee of the month award. I won compliments. And then one day because of a new company that took over, I was let go. My job was everything to me. That was the structure that I had learned. I was cleaning up my record with Clean Slate, I've had nine misdemeanors and one felony dismissed. Because of this new company taking over, now I am unemployed and it's just devastating on my life. It really is."

COMMUNITY FINDINGS



1

The War on Drugs continues to negatively impact San Francisco. It has not increased public safety, nor addressed the underlying social and medical causes for addiction and problematic drug use. The aggressive and punitive policies that characterize the War on Drugs have led to the stigmatization of drug users, high volumes of unnecessary incarceration, overstretched law enforcement resources, and broken communities.

2

The application of drug laws within San Francisco disparately affects vulnerable communities and results in the unnecessary incarceration of drug users and persons with problematic substance use, with little to no effect on the broader criminal drug trade, powerful players in the drug trade, or the social problems associated with it. Where failure at great cost is of general concern, the resultant disparities (particularly along lines of race and immigration status) of the War on Drugs in San Francisco contrasts with basic civil rights principles.

3

San Francisco has an over 40-year pattern of racially discriminatory arrest practices against African Americans, as documented by the Center on Juvenile and Criminal Justice (CJCJ) report in 2012 report.

4

The stated public safety goals of the War on Drugs, including prevention of fatal drug overdoses and drug related violence, are consistently abrogated by the outcomes of the War on Drugs. In San Francisco, for example, illicit drug mortality rates are highest among white, middle-aged residents, yet young African American women are overrepresented in drug arrest trends.

5

International law holds that public policies resulting in racially disparate treatment do not require racial animus or intent in order to establish discrimination.

6

In particular, buy-bust operations in San Francisco target outdoor drug markets resulting in selective drug-law enforcement against communities with lower socio-economic status, persons of color, the homeless, and persons with problematic substance use.

7

San Francisco's buy-bust operations constitute approximately 40% of the cases in San Francisco courts, but only an estimated 1% of those cases involved professional criminals who deal drugs for a living.

8

Most drug convictions in California, including drug possessions, are felonies. Persons with felony drug convictions face significant barriers in accessing employment, education, housing and reuniting with their families in public housing. These barriers create hardship on the entire San Francisco community.

9

On the international scale, Latin America has paid a heavy price for the War on Drugs, including the forced dislocation of 4.7 million people in Colombia and the murder of 50,000 people over the last five years in Mexico.

10

Greater economic benefits are achieved through policies that value regulation and treatment over incarceration. A preventative approach to the specific social problems of "street" violence and organized crime, along with sensible approaches to reducing the number of high-powered weapons in communities, reduces the need for spending on military style weaponry and equipment to battle the drug black market. Similarly, during the period of alcohol prohibition in the United States, the trafficking, sale, and use of alcohol, as well as the violence used to mitigate conflict in that black market were relatively unaffected by increases in heavily armed police forces.

11

In California, except for convictions of simple possession, people convicted of drug offenses are:

- a) Subject to employment discrimination, often including blanket bans imposed by employers against hiring people with criminal records.
- b) May be disqualified from receiving financial aid for education.
- c) Ineligible to receive food stamps.
- d) Ineligible for Temporary Assistance for needy Families (TANF).
- e) May be ineligible for public housing.

12

The War on Drugs has increased the African American out-migration and gentrification of San Francisco, which has a major impact on community stability.

13

Children of people caught in the War on Drugs suffer because their parents are often incarcerated repeatedly, causing a cycle of abandonment and upheaval in the child's life. Testimony from the San Francisco Children of Incarcerated Parents Partnership documented that half of all children with incarcerated mothers are cared for by grandparents, and nearly two-thirds are living in poverty. One out of ten children of prisoners will be incarcerated before reaching the age of 18.

14

There is an increasing need for the San Francisco Public Defender's Clean Slate Program to expunge people's records thereby alleviating reentry barriers. However, access to this program is hindered by:

- a) Fines and fees
- b) The requirement that persons must file in each county to dismiss convictions committed in that county
- c) Limited programmatic resources

15

"Gang" injunctions violate the civil rights of San Francisco's youth, by criminalizing their right to association. The injunctions make the youth targets of racial profiling and hinder them in their efforts to be responsible parents and citizens. Additionally, arrests for small amounts of drugs may be the result of racial profiling. The injunctions create a life-long stigma and additional barriers for young people who have past criminal justice involvement.

16

Just as it is socially unsustainable to create a permanently segregated class of "felons" through civil penalties like blanket employment restrictions, it is equally inefficient and unsustainable to prevent drug users or immigrants (not mutually exclusive categories) from attaining legal status and reasonably (re)joining and contributing to civil society.

17

A drug offense, even without adjudication, can make a person deportable for being a "drug abuser" or "addict."

18

Drug-related offenses may cause undocumented youth to be statutorily ineligible for lawful status or for other forms of immigration relief.

19

Persons with lawful immigration status who are arrested and/or convicted for a drug offense can also be subject to several immigration penalties.

20

Problematic substance use is a public health issue and should be addressed by the medical profession, with the goal of curing addiction.

21

The War on Drugs' aggressively punitive law enforcement approach to drug use has created and perpetuated several health crises both in San Francisco and nationally, as documented in the Vienna Declaration and the Global Commission on Drug Policy's "The War on Drugs and HIV/AIDS: How the Criminalization of Drug Use Fuels the Global Pandemic."

22

Drug courts are only useful when they approach problematic substance use as a health issue, and prescribe treatment rather than criminal justice alternatives. Treatment for drug users should also include an analysis of mental health issues and other factors that contribute to problematic substance use. Abstinence should not be the goal of drug courts.

23

The Vienna Declaration affirms that the criminalization of illicit drug users fuels the AIDS epidemic and has resulted in overwhelmingly negative health and social consequences. In the U.S., the prevalence of HIV and AIDS in the African American community is directly related to the country's emphasis on imprisonment of young men of color.

24

Patients who require medical cannabis to address their health needs are often victims of the War on Drugs.

25

There are concerns that persons with drug histories receive disparate treatment from medical service providers. Persons who seek medical help should not be stigmatized or subjected to inhumane treatment because they are drug users. When drug users are criminally penalized instead of receiving health treatment, they face large barriers to recovery.

COMMUNITY RECOMMENDATIONS



In light of the above findings from the Community, the Community recommends that the City and County of San Francisco end its support of the War on Drugs and refocus efforts to address the underlying problems that have manifested themselves as a result of that War. Problematic forms of drug addiction and drug overdose death are better treated as public health issues, including making fundamental health care and treatment available to those who seek it. San Francisco has an opportunity to lead other cities in the United States by implementing social, scientific, and medical research-based policies for addressing the social problems that the War on Drugs fails to confront.

In pursuit of this goal, the Community urges the Human Rights Commission to:

1. Conduct studies and engage in outreach to enhance San Francisco stakeholders' understanding of the policy impacts occurring due to the war on Drugs. This could include:
 - a) Tracking the costs incurred in San Francisco due to buy-bust operations over a 12-month period. These costs include overtime pay for police officers, the costs incurred in resolving the cases of the targeted individuals, and the costs to incarcerate those who are convicted.
 - b) Examining pre-arrest diversion as an alternative to targeting drug users in buy-bust operations. The Law Enforcement Assisted Diversion (LEAD) program in Seattle, Washington is an example of a model diversion program.
 - c) Creating a database of legal barriers to people with convictions or arrests and evaluating their impact and effectiveness.

- d) Examining models from other countries, including Portugal, as a model for shifting from a criminal justice focus to a health-centered approach to drug addiction, and Uruguay as a model for legalization, regulation, and taxation of cannabis.
- e) Examining the prevalence of pretextual stops and racial profiling as a driver of the War on Drugs.

2. Continuing to host public events and to promote public awareness of the stigmatization of people with arrests and convictions. This could include:

- a) Highlighting the moral, economic, and public safety reasons to reduce barriers to employment, housing and other necessities.
- b) Advocating for enforcement of the strong civil rights and consumer protection laws regulating criminal background checks both within the private sector and at the state level.

3. Supporting legislative reforms that seek to counter the stigmatizing effects of those with drug convictions. This could include legislation that:

- a) Expands post-conviction dismissals and provides that individuals who receive local sentences under the new realignment laws have an opportunity to petition for “set aside and dismissal” under Penal Code § 1203.4 (also known as “expungement”).
- b) Revises the penalty for simple drug possession under state law from a felony to a misdemeanor.
- c) Lifts the lifetime ban on CalFresh assistance for people with prior low-level drug convictions.
- d) Eliminates the current lifetime ban on benefits and services provided through the California Work Opportunity and Responsibility to Kids (CalWORKS) program for people who have a past drug-related felony conviction.
- e) Eases acquisition of California identification for adults and juveniles.
- f) Provides for all California cities and counties to remove the question regarding conviction history from applications for public employment, and to delay conviction history inquiry until an applicant has been found otherwise qualified.

The Community further respectfully recommends that:

1. The San Francisco District Attorney’s Office pursues a legislative end to the War on Drugs. This could include:

- a) Sponsoring ordinances and supporting statewide legislation to address issues of education, employment, and generational trauma experienced by communities affected by gang injunctions.

- b) Sponsoring a local resolution codifying the Bill of Rights for Children of Incarcerated Parents.
- c) Sponsoring amendments to the SF Police and Administrative Codes that expand access to employment and housing for people with certain conviction records, by prohibiting discrimination by all employers, city contractors, and housing providers in San Francisco.
- d) Sponsoring an ordinance to suspend application of all civil sanctions attached to drug convictions for 4-5 years and assesses the impact on recidivism.
- e) Sponsor a local resolution in support of the Medical Marijuana Regulation and Control Act (A.B. 604) and other state legislation that fully regulates and protects access to medical cannabis in San Francisco and throughout the state.
- f) Sponsor a local resolution in support of federal legislation to protect states' rights concerning medical cannabis, such as the bi-partisan Truth in Trials Act (H.R. 710)

2. The San Francisco District Attorney's Office change internal policies in order to divest itself from Drug War policies and invest in a harm reduction approach to addressing drug use. This could include:

- a) Expanding development of programs such as "Back on Track" which provide supports and training with internships and life skills development training.
- b) Reforming zero-tolerance policies that do not take into consideration the impact and cost of utilizing the courts and detention as the only responses for violations.
- c) Implementing Bill of Rights of Children of Incarcerated Parents fully in all city and county departments.
- d) Reforming existing charging practices that "overcharge" youth and young adults for drug related offenses when they first come into contact with the system.
- e) Declaring a local moratorium on new gang injunctions, and stop collecting Bay Area names and contributing data to the CalGANG database.
- f) Ensuring that cases are not arbitrarily transferred to federal court for tougher penalties.
- g) Ending the practice of charging possession as a felony.
- h) Reviewing and reforming policies that lead to disproportionate minority representation in the criminal justice system – e.g. zero tolerance policies, anti-gang ordinances, etc.

3. The San Francisco Police Department demonstrates that current arrest trends, specifically the high arrest rates of African American youth, are producing positive, consistent, and sustainable results. Commission should request that SFPD verify how police anti-drug practices in low-income neighborhoods reduce illicit drug use citywide – including amongst more affluent drug consumers – and reduce drug overdose in San Francisco.

4. The San Francisco Public Housing Authority conform to current HUD policy recommendations, including:
 - a) Allowing the addition of people coming home from jail, prison, or juvenile detention to a family's lease.
 - b) Allowing families with people coming home from prison to join waiting lists for larger apartments.
 - c) Using the discretion provided by federal regulations to allow people with drug felonies into public housing.
5. The San Francisco Sheriff's Department should ensure that as people reenter the community from incarceration, they are fully linked to opportunities for care and are given overdose training and medication as appropriate prior to their release.
6. The San Francisco Department of Public Health should consider supporting a harm reduction approach to addressing drug use by investing in appropriate treatment-oriented services, including:
 - a) Increasing mental health services for the treatment of PTSD, complex trauma, and the impacts of the disproportionate rates of detention for communities of color.
 - b) Training and providing capacity development for local authorities designed to raise awareness about how to handle community members who present behavioral, mental, and substance abuse health conditions.
 - c) Implementing programs similar to Healthy San Francisco, Transitions Clinic, and SF Path, to ensure coverage of substance abuse treatment modalities.
 - d) Supervised injection facilities and heroin assisted treatment services that will enhance San Franciscans health and wellbeing and reduce hepatitis C infections in San Francisco.
7. The San Francisco Probation Department should increase opportunities for drug and alcohol counseling including:
 - a) Establishing detoxification programs, residential treatment programs, residential treatment for women with children, and drug/alcohol counseling for juveniles, both in the community and in juvenile hall.
 - b) Expanding services that aim to eliminate waiting lists for drug treatment programs, so that treatment can be accessed on demand.
8. The City redirect Byrne grants to increase substance abuse treatment as much as possible and eliminate their use in San Francisco's buy-bust operations cycle.
9. The Board of Supervisors, should work with the San Francisco Sheriff and Police Chief to:
 - a) Continue implementing policies that have resulted in a reduction of the number of people in SF

county jails.

- b) Improve inter-agency coordination of reentry services in San Francisco.
- c) Support dialogue and coordination around re-entry policies within the 9-county Greater Bay Area. Coordination and uniformity of re-entry policies throughout the 9-county area will greatly improve opportunity for people released from adult or juvenile detention.
- d) Send a letter to U.S. Attorney Melinda Haag asking her to cease all of her efforts to close medical dispensaries in San Francisco.

10. The City should ease the transition of people coming out of jail, prison, or juvenile detention towards successful reentry by:

- a) Expanding low-cost housing opportunities.
- b) Providing transportation vouchers for people coming out of jail, prison, or juvenile detention.
- c) Fully funding and expanding Transitions Clinic as part of the San Francisco Public Health system.
- d) Supporting education of the formerly incarcerated via increased scholarships and loans for people with conviction histories.
- e) Institute fee waivers for youth seeking to seal or expunge juvenile records.

11. The San Francisco Sheriff's Department and Juvenile Probation Department should improve conditions inside SF County jails, juvenile detention facilities and group homes, with particular regard to individuals facing long-term incarceration due to realignment sentencing. Actions could include:

- a) Assuring access to outdoor recreation.
- b) Assuring contact visiting.
- c) Assuring the right of prisoners to vote (guaranteed under *League of Women Voters v. McPherson*, 2006 CA Supreme Court decision).
- d) Assuring access to GED and higher education programs within the County's Jails, including correspondence programs.
- e) Assuring access to rehabilitative programming inside all San Francisco jails, including anger management, drug treatment, educational and vocational, and parenting programs.
- f) Assuring access to all services and programs for transgender prisoners, and to medical care appropriate to the needs of transgender prisoners.

12. The City should explore removing requirements of non-citizens to enter a guilty plea in order to participate in, for example, pre-arrest diversion programs.

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